(G.C.P.)J 455 (5,00,000)-11.2001) Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

Contempt Petition No.408 of 2004

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions and Registrar's order.	Court's or Judge's orders

None for the petitioner.

Shri S.N.Gawde, AGP for respondents.

CORAM : R.M.S.KHANDEPARKAR, J

DATED : 5th November, 2004

P.C.

1. None present for the petitioner. Perused the records along with the application for contempt.

2. The grievance of the petitioner is that the respondents have not complied with the order dated 5th August, 2004 passed by the City Civil Court, Mumbai, in Notice of Motion No.1718 of 2004 in S.C.Suit No.1985 of 2004. By the said order, the respondent-MHADA was directed to keep 15' pathway for the purpose of use of the plaintiff for approach to main road and the pathway was to be used as access for

Building No.5, Unnat Nagar No.1, Goregaon (West), Mumbai. The petitioner through his advocate issued notice dated 30th August, 2004 for compliance of various directions as per the said order. Bare reading of the said notice discloses that those directions were not in consonance with the order passed by the City Civil Court. Being so, merely because those directions issued under the said notice have not been complied with by the respondents, it cannot be said that the respondents are liable to be proceeded for contempt of Court. Besides, in relation to the order dated 5th August, 2004, if there is any non-compliance on behalf of the respondents, certainly remedy is available under Rule 2A of Order 39 of the Code of Civil Procedure, 1908. Being so, there is no case for proceeding against the respondents under Contempt of Courts Act.

The petition is therefore rejected.